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9

Application Number	09/810,836
Filing Date	March 16, 2001
First Named Inventor	Pierre BROUN
Group Art Unit	Katharine F. Davis
Examiner Name	1635
Attorney Docket No.	514442001200

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ENCLOSURES (check all that apply)

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| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Assignment Papers
(for an Application) | <input type="checkbox"/> After Allowance Communication to Group |
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| <input checked="" type="checkbox"/> Amendment / Reply RESPONSE TO OFFICE ACTION (with RESTRICTION REQUIREMENT)
MAILED 8/29/01, PAPER 6 - 2 pgs | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Group
(Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declarations | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input checked="" type="checkbox"/> Revocation of Prior Power of Attorney and Power of Attorney by Assignee - 3 pgs
Revocation, Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | 1. CERTIFICATE UNDER 37 C.F.R. § 3.73(b)
- 1 pg, including COPY of Assignment - as filed 2 pgs |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | 2. Return Receipt Postcard |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | 3. |
| <input type="checkbox"/> Response to Missing Parts/
Incomplete Application | Remarks | |
| <input type="checkbox"/> Response to Missing Parts
under 37 CFR 1.52 or 1.53 | | |

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual Name	Morrison & Foerster LLP 425 Market Street, San Francisco, CA 94105-2842 Michael R. Ward (Reg. No. 38,651)
Signature	<i>Michael R. Ward</i>
Date	September 28, 2001

CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on September 28, 2001.

LILIA OLSEN

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PATENT
Docket No. 514442001200
Client Reference MBI-0032

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Pierre BROUN

Serial No.: 09/810,836

Filing Date: March 16, 2001

For: METHOD FOR MODIFYING A
BIOSYNTHETIC PATHWAY

Examiner: Katharine F. Davis

Group Art Unit: 1635

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RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Office Action (with restriction requirement) dated August 29, 2001, Paper 6, for which a response is due on September 29, 2001. Applicant also files simultaneously with this response a *Revocation of Prior Power of Attorney and Power of Attorney and Prosecution by Assignee Under 37 C.F.R. § 3.71* supported by the attached *Certificate Under 37 C.F.R. § 3.73(b)*.

Applicant hereby elects **Group I (claims 1-18)**, with traverse.

The Examiner asserts that Groups I-VI are separate and distinct inventions as each require materially different searches. Applicant respectfully disagrees with the Examiner's

assertion. Applicant respectfully submits that it would not be an undue burden to search the claims of Groups I-VI.

At the very least, Applicant requests that the Examiner search Groups I-III together. Applicant respectfully notes that the claims of Groups I-III are all directed to a method of determining whether a member of a pool of test transcription factors encode a pathway transcription factor.

Applicant expressly reserves his right under 35 U.S.C. § 121 to file a divisional or continuation application directed to the nonelected subject matter during the pendency of this application.

Applicant requests examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 514442001200. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: September 28, 2001

By: Michael R. Ward
Michael R. Ward
Registration No. (38,651)

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